IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2335 of 2005

Between:

T.Komaraiah, s/o T.Kanakaiah,
r/o Unikcherla Village, Dharmasagar Mandal,

Warangal District.

..... PETITIONER

AND

1 The State of Andhra Pradesh,

rep., by U.D.R.I (Enforcement) D.S.O's office,

Warangal District.
2 The District Collector, Warangal District.
3 The Revenue Divisional Officer, Warangal District.
4 The Mandal Revenue officer, Dharmasagar Mandal,

Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in suspending proceedings No.E/4628/2004, dt.17-01-2005 and dt.20-01-2005 as illegal, arbitrary, malafide against the provisions of law and consequently direct the respondents to restore the authorisation of the petitioner by suspending impugned proceedings pending the proposed appeal before the District Sessions Judge, Warangal.

Counsel for the Petitioner: Dr. A.M.KRISHNA

Counsel for the Respondents.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is a dealer of fair price shop of Unikcherla Village, Dharmasagar Mandal, Warangal District. Proceedings under Section 6-A of the Essential Commodities Act (for short 'the Act') were initiated against him, on the basis of an inspection said to have been conducted by the authorities of the Civil Supplies Department. Through his order, dated 12.01.2005, the Joint Collector, Warangal held that the allegations against the petitioner are proved and accordingly directed confiscation of the seized commodities.

Taking into account the order passed by the Joint Collector under Section 6-A of the Act, the Revenue Divisional Officer, Waranagal, 3rd respondent, suspended the authorization of the petitioner through his order, dated 17.01.2005. Three days later, he issued a show cause notice, dated 20.01.2005 directing the petitioner to explain as to why the authorization shall not be cancelled, on the basis of the allegations indicated therein. The petitioner claims to have submitted his explanation. Petitioner states that an appeal against the order of Joint Collector was preferred by him before the Court of District and Sessions Judge, Warangal. The grievance of the petitioner is that even while the appeal filed against the order passed under Section 6-A is pending, the 3rd respondent is proceeding to cancel the authorization, on the basis of the findings recorded in the proceedings under Section 6-A of the Act.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

A perusal of the order of suspension, dated 17.01.2005 discloses that the order passed by the Joint Collector in the proceedings under Section 6-A of the Act constituted the basis for the same. Thereafter, a show cause notice was issued proposing to cancel the authorization on those very grounds. The petitioner claims to have preferred an appeal against the order of the Joint Collector. If the petitioner is able to satisfy the lower appellate Court and ultimately the order passed by the Joint Collector is set aside, the very basis for the proceedings initiated against the petitioner by the 3rd respondent stands dissolved. It is not as if any independent grounds or lapses were pressed into service against the petitioner. The 3rd respondent has already suspended the authorization of the petitioner and thereby he is disabled from functioning as dealer.

For the foregoing reasons, the writ petition is disposed of, directing that the proceedings initiated by the 3rd respondent for cancellation of the authorization shall be kept pending, till the appeal preferred by the petitioner against the order passed by the Joint Collector, dated 12.01.2005, is disposed of. It shall however be open to the 3rd respondent to continue the petitioner or to make alternative arrangement in the place of the petitioner. There shall be no order as to costs.

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11.02.2005

Note: Issue C.C. by 14.02.2005

(B/o)

Jsu

To

1 The U.D.R.I.(Enforcement) D.S.O's Office,

State of Andhra Pradesh,

Warangal District.

2 The District Collector, Warangal District.

3 The Revenue Divisional Officer, Warangal District.

4 The Mandal Revenue officer, Dharmasagar Mandal,

Warangal District.

5 Two CCs to the GP FOR CIVIL SUPPLIES,

High Court of A.P., Hyderabad (O.U.T.)

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